

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** March 7, 2025*Check all that apply:***Bill Number:** SFC/SB119 SFAOriginal ☐ Correction ☐Amendment ☒ Substitute ☐**Sponsor:** Senators Munoz & Hickey
and Representative Dixon**Agency Name****and Code**University of New Mexico-952**Number:****Short Title:** Investment in Bioscience
Companies**Person Writing** Kelly O'Donnell**Phone:** 505-659-5702 **Email** kodonnell@unm.edu**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$25,000.0	Nonrecurring	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of Senate Floor Amendments

The Senate floor amendments to the SFC substitute for SB 119 add definitions of "co-investing organization" and "immediate family" and prohibit entities that do business with the Authority from having employees that are related to members of the Authority's board of directors or are members of a director's "immediate family."

Synopsis of SFC Substitute

The SFC substitute for SB 119 as amended adds definitions of "portfolio business" and "New Mexico business." A New Mexico business is defined as having a principal office in New Mexico. In order for a corporation or LLC to be a New Mexico business, the majority of employees must be located in New Mexico. For limited partnerships to qualify, at least 80% of assets must be in New Mexico. The substitute also clarifies that earnings on Authority investments are to be deposited in the bioscience development fund.

Synopsis of SJC Amendments

The Senate Judiciary Committee amendments to SB 119 revise the terms under which the NMBSA may co-invest in qualified bioscience businesses that are based in or relocating to New Mexico by requiring that employees have a *median* salary of \$60k rather than an average salary of \$60k. The amendments also clarify that, if a company that has received a coinvestment sells or moves, the NMBSA may accept reimbursement in stock rather than cash, if the stock is of equal or greater value. The amendments also reduce the penalty for purposeful violation of the conflict of interest clause by NMBSA Board members and staff from a 4th degree felony to a misdemeanor.

Synopsis of Original Bill:

Section 1 amends Section 9-15E-1 NMBSA 1978 to read that Chapter 9, Article 15E NMSA 1978 may be cited as the "Bioscience Development Act".

Section 2 amends the Bioscience Development Act to define "portfolio business" to mean a bioscience business in which the authority has made an investment and "New Mexico business" to mean, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and at least eighty percent of its assets located in New Mexico.

Section 3 amends the Bioscience Development Act to include the deposition of all earnings on investments made by the authority in Bioscience Development Fund which was created in 2017 to enable the NM Bioscience Authority (NMBSA) to fulfill the purposes of the Bioscience Development Act, including actively recruiting industries and establishing programs that will

result in the location and relocation of new bioscience industries in New Mexico.

Section 4 confirms that the authority's annual activities will continue to be reported to the Governor and appropriate legislative committees by October 1st of each year. It also amends the Bioscience Development Act to point out that the annual report will continue to be posted on the authority's website.

Section 5 amends the Bioscience Development Act to allow the NMBSA to co-invest in qualified bioscience businesses that are based in or relocating to New Mexico. It also adds restrictions to the Bioscience Development Act relating to co-investment, including the requirement that investment of dollars from the Bioscience Development Fund must be matched 2:1 by the private investment organization, and requirements for the bioscience businesses receiving co-invested funds.

Section 6 amends the Bioscience Development Act to include employment restrictions relevant to the authority's board members and staff members regarding an entity that has benefited from a contractual or other activity with the authority, including the receipt of co-investment funding.

Section 7 amends the Bioscience Development Act to include investment reporting made to the authority's board of directors on a quarterly basis and shared with the public through their minutes available pursuant to the Open Meetings Act.

Section 8 appropriates \$25 million from the General Fund to the Bioscience Development Fund for the purpose of co-investment. It also stipulates that any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

FISCAL IMPLICATIONS

The appropriation of \$25 million contained in this bill is a one-time expense to the General Fund. The funds do not revert.

SIGNIFICANT ISSUES

The Senate floor amendments to the SFC committee substitute help clarify the definition of a co-investment partner and strengthen the conflict of interest provisions to prohibit immediate family members of board members or NMBSA staff from financially benefiting from the NMBSA's investments by getting jobs with the companies NMBSA invests in.

The SJC amendments to SB 119 clarify and improve the bill.

The NM Bioscience Authority (NMBSA) is a state agency that was created by the NM Legislature as a public-private partnership in 2017 after a report showed the strength of the growing bioscience industry, its presence in New Mexico, and examples of how New Mexico could encourage and capture this burgeoning industry. For example, the bioscience industry's impact on the U.S. economy totaled \$2.6 trillion dollars in 2018, its employment base has grown more than twice as much as the overall private sector since 2016, and its wages are nearly two times the overall U.S. average.

New Mexico has the foundational elements to grow, attract, support, and foster bioscience

businesses, yet it lags behind compared to other states. The problem is that while New Mexico successfully creates bioscience startups, these companies lack the capital necessary to grow their companies here and realize their full potential in New Mexico. Large out-of-state investors that can fund Series A and further investment rounds encourage companies that were “born” in New Mexico to leave in order to be closer to the investor, taking their intellectual capital and key personnel with them. This situation is even more dire when one realizes that, on a national basis, the bioscience industry’s 1.87 million employees and associated economic output support nearly 7.5 million additional jobs through indirect and induced effects (<https://www.bio.org/sites/default/files/2020-06/BIO2020-report.pdf>).

NMBSA hired a third party firm, Econsult Solutions, to assess the situation. Its recommendation is that New Mexico needs a direct investment fund of \$25 to \$50 million to compete and establish a vibrant bioscience industry. Senate Bill 119 effectively funds the Bioscience Development Fund created in 2017 by the Bioscience Development Act.

Through the co-investment program, NMBSA and qualified private investment organizations (such as Angel Investors, Venture Capital, or Private Equity) will co-invest in qualified, selected bioscience businesses in exchange for equity, such as shares in the company. Senate Bill 119 requires that the private investment organization invest at least twice the amount invested by the NMBSA. This requirement leverages the money placed in the Bioscience Development Fund. The selected bioscience business receives 50% more funding than it would have without NMBSA’s co-investment. The bioscience business keeps its employees and spending power in New Mexico. Because the NMBSA has an equity position in the bioscience business, any acquisition of the bioscience business will net returns to shareholders that the NMBSA will place in the Bioscience Development Fund to fund further co-investment.

Provisions have been included in SB 119 to protect the state’s investment and ensure that companies remain in the state and follow the requirements of maintaining at least 5 FTE high paying employees for at least 5 years after receiving the funding. If companies fail to meet these contractual obligations, consequences have been included in the language of the bill.

In order to fully protect the state's investment and inhibit any conflict-of-interest risks on the part of the authority's Board or staff when selecting companies in which to invest, provisions have been added to the bill to restrict these individuals from financially benefitting from the state's investments. Section 6 of the bill specifically excludes companies to participate in this co-investment program who have any employees related to members of the board. In addition, it prohibits any company that has benefitted from a contraction or other activity with the board from hiring any member of the authority's board or its staff up to a year after they have competed their term of office or the employee's service with the authority. This restriction includes the provision that anyone who knowingly and willfully violates these parameters is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

PERFORMANCE IMPLICATIONS

The NMBSA co-investment fund is poised to catalyze economic growth by championing innovation, fostering job creation, and attracting top talent to the state. The paramount role of job creation in nurturing the economic ecosystem cannot be overstated, and this proposed bill stands as a catalyst for driving such growth. Beyond its economic implications, the fund would serve as a dynamic force propelling and encouraging innovation and research development. Through

strategic investments in both burgeoning and established bioscience companies, the fund is positioned to not only enhance industry competitiveness but also facilitate the essential diversification of the state's economy. Beyond this economic pivot, the fund carries the potential to spearhead advancements in healthcare and pave the way for expanded educational opportunities.

Bioscience jobs, known for their above-average compensation, not only contribute to individual prosperity but also elevate the overall economic landscape. The ability to diversify the economy is a strategic move that can render the state more resilient to economic fluctuations, positioning it strategically for long-term stability. In essence, the NMBSA co-investment fund transcends a mere financial allocation; it emerges as a strategic investment in the multifaceted growth and resilience of New Mexico's economic landscape.

ADMINISTRATIVE IMPLICATIONS

Administration of the fund will be managed by the NMBSA staff, including Executive Director, Stephanie Tofighi and Strategy and Policy Director, Ryan Cangioli. The fund will be held at the New Mexico Treasurer's Office. Disbursements from the bioscience development fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development or the secretary's designee pursuant to the Bioscience Development Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

With our national labs, universities, and existing bioscience capabilities, New Mexico is uniquely positioned to be a leader in the bioscience industry. Without a fully funded Bioscience Development Fund and co-investment program, New Mexico is unlikely to attract and retain bioscience businesses, losing those jobs—and additional jobs through indirect and induced effects—to other states.

AMENDMENTS